

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:

MACHNE MENACHEM, INC.

Debtor

CASE NO. 3:07-CV-0057

(JUDGE CAPUTO)

**MEMORANDUM ORDER**

Presently before the Court is Machne Menachem, Inc.'s ("Debtor") Emergency Motion for Stay Pending Appeal (Doc. 3-1). Debtor seeks a stay of the order of the United States Bankruptcy Judge John J. Thomas confirming Yaakov Spritzer's ("Creditor") Modified Second Amended Plan.

Rule 8005 of the Federal Rules of Bankruptcy Procedure sets forth the procedure by which a party to a bankruptcy action may seek a stay pending an appeal to the district court of a bankruptcy judge's order. Rule 8005 provides in pertinent part:

A motion for a stay of the judgment, order, or decree of a bankruptcy judge, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be presented to the bankruptcy judge in the first instance. . . . A motion for such relief, or for modification or termination of relief granted by a bankruptcy judge, may be made to the district court or the bankruptcy appellate panel, but the motion shall show why the relief, modification, or termination was not obtained from the bankruptcy judge.

FED. R. BANKR. P. 8005.

Here, Debtor has not complied with the edict of Rule 8005 as it did not first seek the requested stay from the bankruptcy court. While Debtor did request that the bankruptcy court stay its order pending the resolution of Debtor's motion for clarification

and/or reconsideration, the Court views such a request differently from a request that the bankruptcy court stay its order pending the disposition of Debtor's appeal of the order to the district court. Consequently, Debtor's Emergency Motion for Stay Pending Appeal (Doc. 3-1) will be denied.

Therefore, **IT IS HEREBY ORDERED** that Machne Menachem, Inc.'s Emergency Motion for Stay Pending Appeal (Doc. 3-1) is **DENIED**.

January 11, 2007  
Date

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge